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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,315	07/30/1999	THOMAS T. CHEUNG	ST9-99-078	9277

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WASHINGTON, DC 20037

EXAMINER

NGUYEN, HAI V

ART UNIT	PAPER NUMBER
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2142

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DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/364,315

Applicant(s)

CHEUNG, THOMAS T.

Examiner

Hai V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Action is in Response to the Information received on 02 July 2003.
2. Claims 1-55 are presented for examination.
3. Claims 50-55 are new ones.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Heath et al.** US patent no. **5,553,239** in view of **Jones et al.** patent no. (**US 6,282,561 B1**).

6. As to claim 1, Heath, Management Facility For Server Entry And Application Utilization In A Multi-Node Server, discloses, a method of determining access, the method comprising the steps of: receiving one or more requests to access a system (Heath discloses that a server architecture for connecting to a plurality of remote client computers each seeking access to applications resident on the server, Heaths, Abstract, Fig. 1); However, Heath does not explicitly disclose, for each request, determining whether to allow access to the system using access vector to identify an available access object. Thus, the artisan would have been motivated to look into the

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related network application access art for potential methods and systems for implementing the determining whether to allow access to the system using access vector to identify an available access object.

In the same field of endeavor, Jones, related Method And System For Resource Management With Independent Real-time Applications On A Common Set Of Machines, discloses in an analogous art network application access control, the request is processed and it is determined that the request may not be granted to the activity. The resource planner returns a list of amounts of the set of resources that are currently available to the activity back to the activity (Jones, col. 2, lines 32-39). Jones discloses that once the activity determines what resources it needs and the quantity of those resources it needs, the activity sends a request for the determined quantities of resources to local resource planner to obtain a reservation (step 36 in Fig. 2). *The request that is submitted by the activity holds a "resource set" implemented as an object* (col. 7, line 13 – col. 8, line 40). Jones also discloses in Fig. 5 that the resource planner 62 receives the resource set and applies an appropriate policy to determine whether the resources should be granted (step 38, in Fig. 2). If the resources are granted, the activity 60 may use the reserved resources (step 40 in Fig. 2). If, on the other hand, the resources are not granted, the resource planner 62 informs the activity 60 of the quantities of the requested resources that are available, if any (step 42 in Fig. 2) (Jones, col. 8, lines 40-58; col. 5, lines 10-30)). Jones also discloses that the IResource interface also includes a GetFree() method that returns a value specifying a current amount of the resource that are available (col. 9, lines 40-62). Jones also suggests that

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initially the resource planner receives a request for resources from an activity (step 74 in Fig. 6A). The resource planner then *checks whether the requested resources are currently available in the requested amounts* (step 76 in Fig. 6A). *If the resources are available in the requested amounts, the resources are granted to the activity* (step 78 in Fig. 6A). If the resources are not all available in the requested quantities, the resource planner checks whether any lower importance activities are using resources that are requested so that the resources may be reassigned to complete the resource reservation of the requesting activity (step 80 in Fig. 6A) (col. 11, line 10 – col. 12, line 10).

Accordingly, it would have been obvious to one of ordinary skill in the network application access art at the time the invention was made to combine the teachings of Heath of clients seeking access to applications resident on the server with Jones' teachings of managing access to a resource, for the purpose of ensuring that the resources that are required to ensure timely delivery of the data are guaranteed to the activity that is associated with delivering the data (Jones, col. 13, lines 30-42). Jones also suggests that the present invention guarantees the fidelity of application programs in a distributed environment (Jones, col. 13, lines 30-42).

7. As to claim 2, Heath-Jones discloses, wherein the access object comprises information regarding attributes (Jones, a reference, an amount in terms of units of that resource) of the access object (Jones, col. 7, lines 38-50).

8. As to claim 3, Heath-Jones discloses, wherein the step of determining further comprises the step of evaluating whether the request can be satisfied with an available

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access object based on one or more attributes of that access object (Heath, col. 13, lines 29-31; col. 14, lines 3-4; Jones, col. 5, lines 10-30).

9. As to claim 4, Heath-Jones discloses, further comprising the step of returning a result to the request (Jones, If, on the other hand, the resources are not granted, the resource planner 62 informs the activity 60 of the quantities of the requested resources that are available, if any (step 42 in Fig. 2) (Jones, Abstract; col. 8, lines 40-58)).

10. As to claim 5, Heath-Jones discloses, further comprising the step of modifying the access vector upon receiving an indication that a request has completed its access to the system (Jones, col. 2, lines 47-53).

11. As to claim 6, Heath-Jones discloses, further comprising the step of modifying the access vector to modify a number of access objects (Jones, Abstract; col. 10, lines 35-55).

12. As to claims 7, 8, Heath-Jones discloses, wherein the number of access objects is increased/decreased (Jones, Abstract; col. 2, line 12 – col. 3, line 27).

13. As to claim 9, Heath-Schneider discloses, further comprising the step of modifying one or more attributes of an access object (Jones, col. 10, line 35 – col. 11, line 67).

14. As to claim 10, Heath-Jones discloses, further comprising the step of allowing one request at a time to manipulate the access vector (Jones, col. 1, line 36 – col. 3, line 27).

15. Claim 11 recites an apparatus corresponding to the method of operation of claim 1. The apparatus claimed is obvious in that it simply follows the logical implementation

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of the method indicated in the referenced claims to perform each of the logical steps of controlling access to web servers method that results from the combination of the references discussed above regarding the claims to the method of operation. Thus, the apparatus described in claim 11 would have been obvious in view of the elements provided in the combination of the references, which correspond to the steps in the method of operation for the same reasons discussed above regarding claim 1.

16. Claims 12-20 are substantially the same as claims 2-10 and are thus rejected for the reason similar to those in rejection claims 2-10.

17. As to claim 21, Heath-Jones discloses an article of manufacture comprising a computer program carrier readable by a computer and embodying one or more instructions executable by the computer to perform the method steps for determining access as in the apparatus of claim 11 above. The Examiner takes **Official Notice (see MPEP 2144.03)** that it is well known in the networking art to utilize a computer program carrier readable by a computer embodying one or more instructions for the storing and execution of the method and apparatus in order to perform the functional procedures for determining, controlling access to web servers and computer resources. Therefore, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have included the use of a computer program carrier readable by a computer embodying one or more instructions executable by the computer to store and execute the procedures of managing computer network resources and determining access control because use of storage medium for programs used in general purpose computer to execute special purpose functions was routine in the art.

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18. Claims 22-30 are substantially the same as claims 2-10 and are thus rejected for the reason similar to those in rejection claims 2-10.

19. As to claim 31, Heath-Jones discloses a method of determining access, the method comprising: receiving one or more requests to access a system (Heaths discloses that a server architecture for connecting to a plurality of remote client computers each seeking access to applications resident on the server, Heaths, Abstract, Fig. 1); and for each request, determining whether to allow access to the system using an access vector (Jones, resource planner) comprising of one or more access indicators (Jones, resource providers providing notifications, col. 4, lines 35-47; col. 9, line 63 – col. 10, line 34), wherein only one request at a time uses the access vector (the resource planner grants the request on per-activity basis, col. 14, lines 9-11) (Jones, a resource planner arbitrates access to the resources of a machine amongst different activities. *The resource planner tells an activity what amount of a resource, if any, is reserved for use by the activity.* The resource planner is knowledgeable about all local resources. Each local resource is registered with the local resource planner. The resource planner monitors what activities are allowed to gain access to a resource and how much of the resource may be granted to each activity (Jones, col.4, line 63 – col. 5, line 10). Jones also discloses that the IResource interface also includes a GetFree() method that returns a value specifying a current amount of the resource that are available (col. 9, lines 40-62)).

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20. As to claim 32, Heath-Jones discloses, wherein said access indicators contain information used to determine validity of the request for access (Jones, col. 2, line 54 – col. 3, line 28).

21. As to claim 33, Heath-Jones discloses, wherein the information used to determine the validity includes an access level identifier and the validity of the request is determined based upon comparing an access level associated with the request with the access level identifier (Jones, col. 11, lines 10 – col. 12, line 14).

22. As to claim 34, Heath-Jones discloses, wherein said access indicators include a resource characteristic and determining the validity of the request further includes comparing information contained in the access request with said resource characteristic (Jones, col. 11, lines 10 – col. 12, line 14).

23. As to claim 35, Heath-Jones discloses, wherein the resource characteristic includes one of a resource identifier, resource type, copyright information, type of allowed use, type of allowed user, availability, size, and access level identifier (Jones, col. 11, lines 10 – col. 12, line 14).

24. As to claim 36, Heath-Jones discloses, wherein the method further comprises manipulating the access vector to add an access indicator, thereby expanding the number of simultaneous accesses to the system (Jones, col. 2, lines 47-54; col. 11, lines 10 – col. 12, line 14).

25. As to claim 37, Heath-Jones discloses, wherein the method further comprises manipulating the access vector to remove an access indicator, thereby reducing the

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number of simultaneous accesses to the system (Jones, col. 11, lines 10 – col. 12, line 67).

26. As to claim 38, Heath-Jones discloses an article of manufacture comprising a computer program carrier readable by a computer and embodying one or more instructions executable by the computer to perform the method steps for determining access as in the method of claim 31 above. The Examiner takes **Official Notice (see MPEP 2144.03)** that it is well known in the networking art to utilize a computer program carrier readable by a computer embodying one or more instructions for the storing and execution of the method and apparatus in order to perform the functional procedures for determining, controlling access to web servers and computer resources. Therefore, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have included the use of a computer program carrier readable by a computer embodying one or more instructions executable by the computer to store and execute the procedures of managing computer network resources and determining access control because use of storage medium for programs used in general purpose computer to execute special purpose functions was routine in the art.

27. Claims 39-44 are substantially the same as claims 32-37 and are thus rejected for the reason similar to those in rejection claims 32-37.

28. As to claim 45, Heath-Jones discloses, further comprising: granting access to the system in response to identifying said available access object, wherein said available object is unavailable for further use while said access is granted (Jones, col. 2, line 12 – col. 3, line 27; col. 11, lines 10-67).

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29. Claim 46 is substantially the same as claim 45 and is thus rejected for the reason similar to those in rejection claims 45.

30. Claim 47 is substantially the same as claim 45 and is thus rejected for the reason similar to those in rejection claims 45.

31. Claim 48 is substantially the same as claim 45 and is thus rejected for the reason similar to those in rejection claims 45.

32. Claim 49 is substantially the same as claim 45 and is thus rejected for the reason similar to those in rejection claims 45.

33. As to claim 50, Heath-Jones discloses, a method of determining access to a system, said system permitting a predetermined number of simultaneous accesses, the method comprising: receiving one or more requests to access the system (Heaths, Abstract, Fig. 1); and for each request, determining whether to allow access to the system using an access vector (Jones, resource planner) comprised of one or more access indicators (Jones, activity notifications to resource sets), wherein a number of available access indicators corresponds a number of the simultaneous accesses permitted by the system at any given time (Jones, col. 9, line 8 – col. 12, line 67).

34. As to claim 51, Heath-Jones discloses, further comprising for each request, granting access to the system if an available access indicator is found in said access vector (Jones, Abstract, col. 9, line 63 – col. 10, line 42; col. 11, lines 30-60).

35. Claims 52-53, 54-55 are substantially the same as claims 50-51 and are thus rejected for the reason similar to those in rejection claims 50-51.

Response to Arguments

36. Applicant's arguments received on 02 July 2003 have been fully considered but they are not persuasive.

37. In the remark, Applicant argued in substance that

(A) There is a type of hindsight analysis to combine the references in claims 1, 11, and 21.

As to point (A), In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

(B) There are no suggestions to combine the references in claims 1, 11, and 21.

As to point (B), in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one

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of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Jones discloses that the resource planner then *checks whether the requested resources are currently available in the requested amounts* (step 76 in Fig. 6A). *If the resources are available in the requested amounts, the resources are granted to the activity* (step 78 in Fig. 6A). If the resources are not all available in the requested quantities, the resource planner checks whether any lower importance activities are using resources that are requested so that the resources may be reassigned to complete the resource reservation of the requesting activity (step 80 in Fig. 6A) (*col. 11, line 10 – col. 12, line 10*).

Accordingly, it would have been obvious to one of ordinary skill in the network application access art at the time the invention was made to combine the teachings of Heath of clients seeking access to applications resident on the server with Jones' teachings of managing access to a resource, for the purpose of *ensuring that the resources that are required to ensure timely delivery of the data are guaranteed to the activity that is associated with delivering the data* (Jones, *col. 13, lines 30-42*). Jones also suggests that the present invention guarantees the fidelity of application programs in a distributed environment (Jones, *col. 13, lines 30-42*).

38.

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39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 703-306-0276. The examiner can normally be reached on 7:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Powell can be reached on 703-305-9703. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800/4700.

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Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20131

or faxed to:

(703) 746-7239, (for **formal communications**; please mark
"EXPEDITE PROCEDURE").

or:

(703) 746-7240 (for **informal or draft communications**, please
label "PROPOSED " or "DRAFT").

Or:

(703) 746-7238 (for After Final communications).

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

KENNETH R. COULTER
PRIMARY EXAMINER


Hai V. Nguyen
Examiner
Art Unit 2142

